



United States  
Department of  
Agriculture

Forest  
Service

Bitterroot National Forest

1801 N. First  
Hamilton, MT 59840  
406-363-7100

File Code: 7700

Date: June 6, 2007

Ravalli County Commissioners  
215 So. 4th Street  
Suite A  
Hamilton, MT 59840

**RECEIVED**

**JUN 11 2007**

**Ravalli County Commissioners**

Dear Commissioners,

--	--	--	--	--

The Hughes Creek road, (county road 9630) has been a public county road since 1900. By this letter we are asking the county assert the public status of this road and take appropriate action to redeem the public's right to use the upper segment of this road beyond the gate illegally placed by a private individual. We are willing to work with the county in whatever capacity necessary to redeem the public's right to continue to use this public road. Our Office of General Counsel has advised me in this matter and has been in contact with County Attorney George Corn.

The segment in question begins at the locked gate in Section 2, T3S R21W, west line of Mineral Survey (MS) 5898, and runs easterly to the terminus of the road in Section 20, T2S R21W, PMM. This locked gate is located at mile post 8.5 and has been in place since roughly 1978. The gate is an illegal obstruction to public use on a public road. The public status of this road has recently become more urgent as a landowner with holdings behind the gate is attempting to market the property advertising that access is via a private road behind a locked gate.

Following is a brief chronology of the history of the subject Hughes Creek road:

March 10, 1899 - Petition was filed with the Ravalli County Commissioners for survey and construction of a road on Hughes Creek.

June 5, 1900 - Commissioners declared the road a public highway from the Alta Post Office running east to Woods Placer Mining Company Claims, a total of approximately 12 miles.

April 27, 1981 - Letter to the Forest Service from County Attorney, Robert Brown, stating the road as originally petitioned, 12 miles, remains a public road under county jurisdiction.

August 1982 - Landowners petition to abandon a portion of the road from the west boundary of MS 5898 to the terminus of the road.

October 14, 1982 - Commissioners issue order to deny petition to abandon and further order that the road remain open to the public and that all encroachments be removed.

May 29, 1984 - Ravalli County brings suit against landowners to remove gates.



September 20, 1984 – Order to Show Cause Hearing before Judge Wheelis. Judge rules that a restraining order would not be issued due to insufficient evidence of a public road.

October 19, 1988 – Letter from County Attorney, John Robinson, to Commissioners recommending that the matter of removing the gates be dismissed without prejudice in the event additional evidence might be introduced at a later date.

December 10, 1993 – Judge Langton dismisses case without prejudice.

The Hughes Creek road provides the only access to the upper reaches of the Hughes Creek drainage. The unauthorized gating of this road has effectively barred public access to thousands of acres of public land. Current Montana Code, 7-14-2615 (3), states: "The board may not abandon a county road or right-of-way used to provide existing legal access to public land or waters, including access for private recreational use as defined in 23-2-301 and as permitted in 23-2-302, unless another public road or right-of-way provides substantially the same access."

The Forest Service wishes to work with the county to restore public access to public lands and a determination from the county regarding the status of this road segment is a crucial step in restoring this access. Please let us know how we can best assist the county in this effort.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barry Paulson", with a stylized, flowing script.

BARRY PAULSON  
Acting Forest Supervisor

cc: Dave Campbell, George Corn, Ravalli County Attorney, Chris Hoffman, Ravalli County Sheriff, David Ohnstad, Ravalli County Road Supervisor